Transportation Appeal Tribunal
of Canada

AVIATION MARINE RAIL TUNNELS BRIDGES

» Annual Report
2010–2011

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Annual Report 2010–2011

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TRANSPORTATION APPEAL TRIBUNAL
OF CANADA

June 30, 2011

The Honourable Denis Lebel, P.C., M.P.
Minister of Transport, Infrastructure and Communities and
Minister of the Economic Development Agency of Canada for
the Regions of Quebec
Transport Canada
Place de Ville, Tower "C"
330 Sparks Street, 29th Floor
Ottawa, Ontario K1A 0N5

Dear Minister:

RE: ANNUAL REPORT 2010-2011

In reference to the above and pursuant to section 22 of the *Transportation Appeal Tribunal of Canada Act*, I am very pleased to submit to Parliament, through your intermediary, the Annual Report of the Transportation Appeal Tribunal of Canada for the fiscal year 2010-2011.

It is an honour and a privilege to serve Canadians.

Yours sincerely,

J. Richard W. Hall
Chairperson and CEO

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Canada

TRANSPORTATION APPEAL TRIBUNAL
OF CANADA

Annual Report
2010-2011

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Message From The Chairperson

It is my distinct pleasure to present the latest Annual Report of the Transportation Appeal Tribunal of Canada. The year 2010 represents 24 years of service to Canada by the ("Tribunal") and its predecessor, the Civil Aviation Tribunal.

The Tribunal is a quasi-judicial body adjudicating matters that have a serious impact on the livelihood and operations of the aviation, marine and rail sectors of the Federal transportation system and recently, transportation security issues.

To accommodate its changing membership, the Tribunal has held a number of training sessions over the past year and continues to train its steady flow of newly appointed Members. I am confident that the professionalism which is shown in the conduct of the Review and Appeal Hearings and the well reasoned decisions which follow are a direct result of the quality of these training sessions and the calibre of our part-time Members.

The knowledge and expertise possessed by the Tribunal Members enhance their independence by enabling them to understand and assess the validity of the reasons for the enforcement and licensing actions. They also contribute to the confidence which the parties place in the decisions rendered by the Tribunal.

Over the years, the Tribunal's practice and procedures have been flexible, innovative and straightforward and the Tribunal became one of the Federal government's best practices organizations. The basic principles governing the Tribunal are those of independence and expertise in an administrative law environment espousing the principles of fairness and natural justice.

The very existence of the Tribunal, as a forum for the review of enforcement and licensing decisions has, in and of itself, created an environment for the resolution of matters between Transport Canada and the air, marine and rail industries that it regulates. That is to say, that the Tribunal provides a forum for the parties to talk to each other, to communicate and that alone resolves many matters, such as aviation medical cases.

The Tribunal has continued to make progress and innovations over the past few years, while keeping up with its expanding mandate to include cases in the marine sector by hearing cases under the *Canada Shipping Act, 2001*.

Finally, I offer my gratitude to all Tribunal Members and employees for their dedication to the provision of an independent review process for the benefit of Canada's transportation community. I am confident that we can continue to meet future challenges with the commitment to excellence evidenced by the past and present performances of this Tribunal.

J. Richard W. Hall
Chairperson and CEO

OVERVIEW

Introduction

The Transportation Appeal Tribunal of Canada replaced the Civil Aviation Tribunal in 2003 originally established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, assented to on December 18, 2001, being chapter 29 of the Statutes of Canada, 2001, the Act officially came into force on June 30, 2003. The Tribunal is available to the air, marine and rail sectors. Sections 2 and 3 of the *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act*, the *Marine Transportation Security Act*, the *Railway Safety Act*, the *Canada Transportation Act*, the *International Bridges and Tunnels Act* and the *Canada Marine Act* to establish the jurisdiction and decision-making authorities of the Tribunal under those Acts.

MANDATE

The Tribunal's principal mandate, as a multi-transportation modal administrative law review body, is to hold Review and Appeal Hearings at the request of interested parties with respect to certain administrative actions taken under various federal transportation Acts.

Program Objective and Description

The objective of the program is to provide the transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

The Minister's enforcement and licensing decisions may include the issuance of orders, the imposition of monetary penalties or the suspension, cancellation, refusal to renew, or the refusal to issue or amend documents of entitlement on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process: Review and Appeal. All hearings are held expeditiously and informally, in accordance with the rules of fairness and natural justice.

OVERVIEW

At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

It is noteworthy to mention that the anticipated increased jurisdiction for the Tribunal will enlarge the caseload considerably over the next few years, but the business line will not be amended.

Organizational Structure

The Tribunal's Chairperson is also its Chief Executive Officer. The Chairperson is responsible for the direction and supervision of the work necessary to facilitate the functions of the Tribunal. The Chairperson, Vice-Chairperson and immediate staff account for twelve full-time equivalents.

Twenty-four part-time Members were in office during 2010-2011. Members are drawn from across Canada and are appointed by Governor in Council on the basis of their knowledge and expertise. During fiscal year 2010-2011, two part-time Members were renewed and six new part-time Members were appointed.

Basic Principles

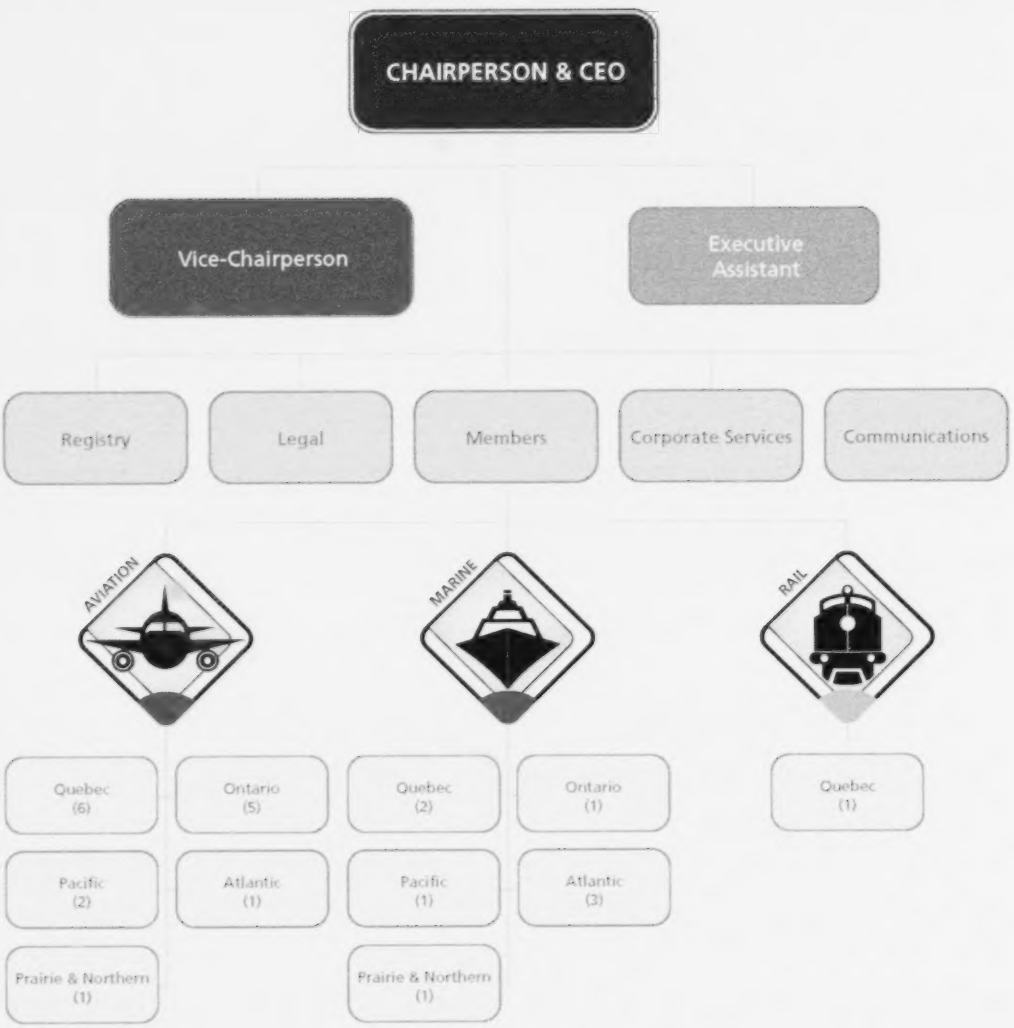
The basic principles governing the Tribunal are those of independence and transportation expertise. The sound and competent execution of the Tribunal's mandate determines its effectiveness in dealing with the Canadian transportation community.

The Tribunal offers its services in both official languages of Canada. It is also itinerant, in the sense that its hearings take place throughout Canada, at the convenience of the parties to the extent possible.

In enforcement matters, the location will normally be where the alleged infraction occurred, or the nearest practical alternative, so that witnesses for the parties may present themselves with minimum displacement costs.

In medical cases, hearings are held at the location which is nearest to the residence of the document holder and attainable by way of commercial transportation.

Organization Chart



* Twelve full-time equivalents (FTEs) are utilized by the continuing full-time employees, including the Chairperson and Vice-Chairperson. The 24 part-time Members utilize approximately three full-time equivalents. During fiscal year 2010-2011, two part-time Members were renewed and six new part-time Member was appointed.

Tribunal Members – full-time

J. Richard W. Hall
Chairperson & CEO

Appointed to a four year full-time term as Chairperson and CEO of the Tribunal, effective November 23, 2009, Mr. Hall holds a Bachelor of Laws degree from the University of Victoria, a Master of Science in Geography and an Honours Bachelor of Arts in Geography from the University of Western Ontario. Prior to his nomination at the Tribunal, he was a part-time Member at the Tribunal.

Mr. Hall began his legal career in 1984 holding various legal and management roles with Chevron Canada Limited. From 1989 to 1994, he worked for the Province of British Columbia with three different administrative tribunals – labour relations, public sector compensation and criminal injuries compensation, providing advice in law and policy. From 1995 to 1997, he was a Senior Labour Relations Officer for Vancouver Hospital and Health Sciences Centre, after which he became Legal Counsel for the Vancouver School Board until 2001. That same year, he became Regional Director of Human Resources and Compensation for Physicians of the Vancouver Coastal Health Authority, a position he held until 2005. From 2005 to 2009 he provided business and law advice to both the private and public sectors. Immediately prior to his appointment he was an Adjudicator with the Alberta Solicitor General.

Mr. Hall is a Member of the Law Society of British Columbia and the Canadian Bar Association, and has served on the Boards of Directors of three publicly traded companies and two private sector companies. Mr. Hall was born in Montreal and lived in Quebec and Ontario before moving to British Columbia in 1980.

Tribunal Members – full-time

Eleanor D. Humphries

Vice-Chairperson

Appointed to a five-year full-time term as Vice-Chairperson of the Tribunal, effective March 3, 2008, Ms. Humphries holds a Bachelor of Science and a Master's in Business Administration from Dalhousie University in Halifax, Nova Scotia. She also has an executive management diploma from McGill University in Montréal, Quebec.

Ms. Humphries worked in various management positions of increasing seniority within the financial services industry, including management positions within the Bank of Nova Scotia from 1985 to 1999 and the Montreal Trust Company from 1999 to 2000. She was the president and chief executive officer of Credit Union Atlantic from 2000 to 2005 and of Halifax International Airport Authority from 2005 to 2007. In 2004, Ms. Humphries received a Distinguished Alumni Award from Armbrae Academy. In 2006, she received the Canadian Progress Club Women of Excellence Award for leadership. She has been honored on five occasions as one of the Top 50 CEOs in Atlantic Canada and in 2007 she was inducted into the Top 50 CEOs Atlantic Canada Hall of Fame. Ms. Humphries held several board positions with business, charitable and educational organizations.

Tribunal Members – Part-Time

François Audette

Salaberry-de-Valleyfield, Quebec

» Appointed to a part-time term of four years on May 9, 2008.

Mr. Audette holds a Bachelor's Degree in Mechanical Engineering from the Université du Québec and a Degree in Aeronautical Fabrication from Collège Édouard-Montpetit. He is a Manager for SGS Canada and past President of Québec Levage Expert, a company specializing in lifting devices. He previously worked as an Engineering, Production and Quality Director with two Montreal-area companies, and as a teacher at the Collège de Valleyfield.

Howard M. Bruce

Sainte-Foy, Quebec

» Appointed to a part-time term of four years on October 30, 2009.

Mr. Bruce is a Partner at a law firm, in the City of Quebec, where he practises law, including transportation law relating to the Commission des transports du Québec, the *Canada Transportation Act*, the *Aeronautics Act* and the *Railway Safety Act*. He received his Law Degree at the University of Ottawa Law School in 1990 and was called to the Barreau du Québec in 1992. Mr. Bruce has varied and impressive experience in litigation and representation before all levels of Quebec courts.

Brad M. Caldwell

Vancouver, British Columbia

» Appointed to a part-time term of three years on February 3, 2011.

Mr. Caldwell holds a Bachelor of Laws degree from the University of Victoria Law School and an advance mediation certificate. He practiced law since his admission to the British Columbia Bar in 1986, with an emphasis on maritime and fisheries litigation, general commercial litigation and administrative law. Prior to his legal career, Mr. Caldwell gained practical experience in the marine industry as a fisherman, deckhand, commercial diver and longshoreman. His professional associations include the Canadian Maritime Law Association, the Law Society of British Columbia and the Marine Insurance Association of British Columbia.

Tribunal Members - Part-Time

Dr. Kenneth J. Corbet

Calgary, Alberta

» **Appointed to a part-time term of three years on March 3, 2011.**

Dr. Corbet is a Clinical Associate Professor at the University of Calgary, where he teaches community health sciences, in addition to being an Adjunct Associate Professor, Faculty of Medicine and Dentistry, at the University of Alberta. Since 1998, he has been working as a consultant with the Canadian Pacific Railway and, in 2008, he became the Railway's assistant chief medical officer in Calgary. Dr. Corbet is a member of numerous professional societies, including the Alberta Medical Association, the Canadian Medical Association, the Alberta Occupational Medicine Association, and the Royal College of Physicians and Surgeons.

Caroline Desbiens

Sainte-Foy, Quebec

» **Reappointed to a term of four years on May 14, 2010.**

A lawyer since 1988, she works principally in the areas of aviation and maritime law. Ms. Desbiens received a law degree from the Univsersity of Laval in 1987, and a diploma in international law and comparative law from the University of San Diego in 1988. Ms. Desbiens received a master's degree in air and space law from McGill University in 1993. A member of the Barreau du Québec, Ms. Desbiens is also a member of the Canadian Bar Association, the Association québécoise des transporteurs aériens, the Insitute of Air and Space Law Association, the Canadian Maritime Law Association and the Chambre de commerce de Québec.

Danièle Dion

Kirkland, Quebec

» **Appointed to a part-time term of four years on May 9, 2008.**

Ms. Dion holds a Bachelor of Arts Degree in Social Communication, a Licence in Civil Law and a Bachelor's Degree in Common Law from the University of Ottawa. She also holds a Master's Degree in Maritime and International Law from Dalhousie University. She was called to the Barreau du Québec in 1985. She currently is a Partner in a Law Firm specializing in Admiralty Litigation, Transportation and Insurance Laws. She is a Director of the Canadian Maritime Law Association and a Member of the Editorial Board of the Journal of Maritime Law and Commerce.

Tribunal Members – Part-Time

Patrick Terrence DOWD

Port Colbourne, Ontario

» Appointed to a part-time term of three years on June 18, 2010.

Mr. Dowd holds a Bachelor of Arts from the University of Toronto and a Bachelor of Laws from the University of Windsor. He served as an Air Force Officer servicing as a flight instructor and transport pilot in Europe. He simultaneously performed duties as a pilot and assisted with the responsibilities of counsel to Air Canada. He entered private practice as an associate to the firm of Helson, Kogan, Ashbee, in Georgetown, Ontario, where he eventually became a sole practitioner. After his career at Air Canada, he was invited to join Skyservice Airlines and rose to become Chief Pilot, and later Director of Flight Operations. Mr. Dowd was invited by Boeing to join Alteon, their training company in Korea, as an Airbus Instructor, where he became a Check Pilot for the Korean Government on A320/321 and A330 aircraft. He holds a current Korean Airline Transport Pilots Licence and a renewable Canadian Airline Transport Pilots Licence.

Michel FERLAND

Sainte-Marcelline, Quebec

» Appointed to a part-time term of four years on June 4, 2007.

Mr. Ferland holds a Bachelor of Arts Degree from Collège Jean-De-Brébeuf, and a Licentiate in Laws Degree from the Université de Sherbrooke. He was called to the Barreau du Québec in 1973. He currently is a Law Associate with a Law Firm in Joliette, Quebec. He entered into private practice in 1973. He became a Prosecutor for the City of Joliette in 1985, and was a Member of the Human Rights Tribunal Committee from 1991 to 1993. Mr. Ferland is a Member of the Canadian Bar Association, a Member of and former Legal Advisor to the Barreau des Laurentides, and a former Member of the Comité pour la pratique privée – Barreau du Québec – Tarification. He has been involved in a number of community organizations in the Lanaudiere region since 1973.

TRIBUNAL MEMBERS – PART-TIME

Dr. Trevor Allan GILLMORE

Kleinburg, Ontario

» **Appointed to a part-time term of three years on May 9, 2008.**

Dr. Gillmore holds a Doctor of Medicine Degree from McMaster University. In 2008, he received his Fellowship in Occupational Medicine and completed a Master's Degree in Aviation Medicine through Otago University in New Zealand. He currently serves as a Provincial Coroner for Ontario. He is also a Flight Surgeon and Pilot for Air Canada and a Medical Support Specialist for the Transportation Safety Board of Canada. He was previously an Emergency Room Physician at three Greater Toronto Area hospitals. He has worked and trained extensively in the forensic sciences field and is a member of a number of committees and associations, including the College of Physicians and Surgeons of Ontario and the Canadian Aerospace Medical Association.

David G. HENLEY

Halifax, Nova Scotia

» **Appointed to a part-time term of four years on August 6, 2010.**

Mr. Henley is a partner in the Halifax office of the law firm of Steward McKelvey. Mr. Henley is a graduate of the University of New Brunswick (Bachelor of Business Administation in 1989 and Bachelor of Laws in 2000) and Dalhousie University (Master of Laws in Marine and Environmental Law in 2003). He has a broad commercially oriented practice in the areas of maritime, construction, energy and natural resources and envrionmental law. After a career in the army as an artillery officer, Mr. Henley was admitted to the Nova Scotia Bar in 2001. He continues to serve in the Army Reserve as a Colonel and after returning recently from a tour in Afghanistan he was invested as a Member of the Order of Military Merit by the Governor General. Mr. Henley is chair of his firm's Marine Practice Group, is a past-chair of the CBA Environmental Law Subsection, Nova Scotia, and has written, presented and published papers on a variety of marine and environment related subjects. Mr. Henley is an associate of the Marine Environmental Law Institute and part-time faculty at the Schulich School of Law where he teaches Fisheries Law.

Tribunal Members – Part-Time

Dr. Trevor Jain
Charlottetown, P.E.I.

» Appointed to a part-time term of four years on February 3, 2011.

Appointed to a part-time term of four years on February 3, 2011, Dr. Jain holds a Bachelor of Science degree in biology and computer science from Acadia University as well as a Medical Degree from Dalhousie University, and pursued further studies in medicine at the University of Ottawa and Queen's University. He is currently an attending physician in emergency medicine at Queen Elizabeth in Charlottetown, Prince Edward Island, and serves as Coroner for the Prince Edward Island Department of Justice and Public Safety. Dr. Jain has served as a family physician, a clinical director for a NATO hospital unit in Bosnia and as a pathology operations officer for the Swissair 111 accident investigation. He has flown commercial aircraft and was an infantry officer with the Department of National Defence. Dr. Jain also serves as a Medical Officer with the Canadian Forces in the Reserves. His professional affiliations include the Canadian Association of Emergency Physicians, the Canadian College of Family Physicians, the Canadian Medical Association and the Canadian Owners and Pilots Association.

Maurice Jaques
Pointe-Claire, Quebec

» Appointed to a part-time term of four years on May 9, 2008.

Mr. Jaques studied at Lower Canada College and McGill University before entering the maritime insurance business. He became President of Eastern Marine Underwriters, serving insurance brokers across Canada in marine cargo, hull and liability insurance and related claims. Following a merger with the Maritime Insurance Company in 1995, he became Managing Director of the Montreal office and occupied that position until his retirement. During his career, he was President of the Canadian Board of Marine Underwriters for two separate terms. He was President of the International Union of Marine Insurance from 1988 to 1991. He also served as Deputy Chairman of the Canadian Committee of Lloyd's Register of Shipping. He recently completed a six-year term as a Member of the Audit Committee of the International Oil Pollution Compensation Fund.

Tribunal Members – Part-Time

C. Michael Keefe

Mount Pearl, Newfoundland and Labrador

» Appointed to a part-time term of three years on September 4, 2008.

Mr. Keefe graduated from the Canadian Coast Guard College in 1974. Mr. Keefe is a Registered Professional Engineer practising in the Province of Newfoundland and Labrador. As well, he holds a Certificate of Competency issued by the Government of Canada as a First Class Marine Engineer. Mr. Keefe spent several years with the Canadian Coast Guard serving as a Ship's Engineering Officer and Chief Engineer and later ashore, as the Supervisor of Engineering for the Newfoundland Region. He then spent several years with Transport Canada Marine Safety as the Manager of Examinations and Enforcement for the Atlantic Region. He has held ministerial appointments with Marine Safety as a Steamship Inspector, Examiner of Engineers, Pollution Prevention Officer and Health and Safety Officer. Since 2006, Mr. Keefe has been employed as Manager of Marine Fleet Maintenance with Diesel Injection Sales & Service Ltd. of Mount Pearl in Newfoundland.

Dr. Michel Larose

Montréal, Quebec

» Reappointed to a part-time term of four years on June 19, 2009.

Dr. Larose graduated in Medicine from the Université de Montréal in 1965, and he is currently a Medical Assessor at the Commission des lésions professionnelles. Dr. Larose was previously in private practice and associated with several Montreal area hospitals. He was Medical Director for several organizations, including Quebecair, and was a Civil Aviation Medical Examiner for Transport Canada. Dr. Larose is a Former Investigative Coroner for the Province of Quebec. In the past, he has held a Private Pilot Licence.

Herbert Lee

Richmond, British Columbia

» Reappointed to a part-time term of four years on September 20, 2010.

Mr. Lee is the Managing Director of a Vancouver-based travel agency. He is also a Licensed Private Pilot and a Certified Travel Manager. Mr. Lee is a Member of the Richmond Chamber of Commerce, the Hong Kong Aviation Club and the Royal Canadian Mounted Police Advisory Committee for Multiculturalism in Richmond and a past Member of the Hong Kong Chamber of Commerce. He has studied at Simon Fraser University, the Hong Kong Polytechnic University and the Royal Navy School in the United Kingdom.

Tribunal Members – Part-Time

Barrie LePitre

Gloucester, Ontario

» **Appointed to a part-time term of four years on December 3, 2007.**

Mr. LePitre holds a Bachelor of Arts Degree from Carleton University in Ottawa, and a Bachelor of Laws Degree from Osgoode Hall Law School of York University in Toronto. He began his career in 1977 as Counsel for the Commercial and Property Law Section of the Regional Office of Justice Canada in Toronto, Ontario. In 1983, he began serving as Counsel with the Department's Legal Services offices in Ottawa. Recently retired, Mr. LePitre served as Counsel, Senior Counsel and General Counsel to many client departments during his 30-year career. Of special note is his service as General Counsel for transport from 1996 to 2007, during which time he provided a wide range of advisory legal services with respect to the marine component of Transport Canada, particularly concerning the *Canada Marine Act*. Mr. LePitre is a member of the Law Society of Upper Canada and a Notary Public for the Province of Ontario.

Elizabeth MacNab

Ottawa, Ontario

» **Appointed to a part-time term of four years on December 3, 2007.**

Ms. MacNab holds a Bachelor of Laws Degree from the University of Toronto, a Diploma in Legislative Drafting and a Licentiate in Laws Degree from the University of Ottawa. She was called to the Bar of Ontario in 1967. She began her legal career as Counsel for a private law firm and participated in studies with the Law Reform Commission of Ontario. From 1981 to 1986, she worked as a Legislative Officer with Transport Canada's *Aeronautics Act* Task Force. In 1986, she moved to the Department's Aviation group, where she oversaw the preparation of draft regulations for review by Justice Canada, and provided policy advice on amendments to Federal Transportation Acts. In 1990, she became Counsel for Transport Canada, providing legal advice on matters relating to various modes of transportation and administrative law. Ms. MacNab also represented the Department at international conferences and committees on aviation-related matters.

Tribunal Members – Part-Time

Franco Pietracupa

Dollard-des-Ormeaux, Quebec

» **Appointed to a part-time term of four years on June 18, 2008.**

Mr. Pietracupa received his College Diploma in Aeronautical Pilot Instruction in 1997. He has worked for various companies in aviation, including CESPA Flight College, and has held the position of Class 1 instructor/chief flight instructor from 1997 to 2000 in different flight training organizations. With his extensive experience as a Flight Instructor and Operator, he was designated as a flight test examiner with Transport Canada. Since April 2000, Mr. Pietracupa has held the position of Manager of Business Aircraft Flight Training, Global and Challenger programs at Bombardier Aerospace in Montreal.

Suzanne Racine

Kirkland, Quebec

» **Reappointed to a part-time term of three years on November 30, 2009.**

Ms. Racine, a Lawyer since 1980, holds a Licence in Civil Law from the University of Ottawa (1979), Mediator Training (1992) and a Master's Degree from the Institute of Air and Space Law, McGill University (1987). She was a Director of Regulatory and Government Affairs at Air Transat and has acted as a Consultant in the areas of travel and air transport. Ms. Racine is a Member of the Barreau du Québec and the Institute of Air and Space Law Association.

Stephen Rogers

Vancouver, British Columbia

» **Appointed to a part-time term of four years on November 23, 2009.**

Mr. Rogers was a Member of the British Columbia Legislative Assembly for 16 years. He served as a Cabinet Minister in several portfolios, including as Minister of Transportation and Highways and as Speaker and Deputy Speaker of the House. He began his career as a Pilot with the Royal Canadian Air Force and flew commercial aircraft with Air Canada prior to and after his career in politics.

Tribunal Members – Part-Time

Arnold Price VAUGHAN

Calgary, Alberta

» **Appointed to a part-time term of three years on September 20, 2007.**

Mr. Vaughan began his career by enrolling in the Canadian Armed Forces Regular Officers Training Plan as an Officer Cadet in 1966 and was then trained as a Military Pilot. He served for 18 years in the regular and reserve forces and gained senior officer status. He currently possesses both Canadian and American Airline Transport Pilot Licences and a Commercial Helicopter Licence. He retired as Captain from Air Canada. He is a member of the Royal Aeronautical Society, the Aviation Security Association of America International and the Council of Aviation Accreditation. Mr. Vaughan holds a Bachelor of Arts from the University of Waterloo and a Master of Business Administration, with a Major in Aviation and International Business, from Concordia University.

Yves VILLEMAIRE

Paradise, Newfoundland and Labrador

» **Appointed to a part-time term of four years on May 14, 2010.**

Mr. Villemaire is a graduate of the Canadian Coast Guard College. He started his career as a Ship's Officer and served in various parts of the country in a number of shipboard and shore positions. He holds a Canadian Coast Guard Command Certificate and an MBA from Queen's University. He retired from the Canadian Coast Guard in 2007 where he held a number of executive positions including Director General, Fleet, Director General, Maritime Services and Executive Director of the Canadian Coast Guard College in Sydney, Nova Scotia. Prior to holding these positions, he had been Director General, Human Resources for two years with the Department of Fisheries and Oceans. This followed a three-year appointment as Director, Early Conflict Resolution Office, a service he established for the Deputy Minister. Mr. Villemaire is currently a management consultant and a part-time member of the Faculty of the Marine Institute of Memorial University in St. John's.

TRIBUNAL MEMBERS – PART-TIME

Dr. James M. WALLACE

Ottawa, Ontario

» Appointed to a part-time term of four years on April 11, 2008.

Dr. Wallace holds a Bachelor of Medicine and Surgery from the University of Edinburgh, Scotland, and a Diploma in Aviation Medicine from the Royal College of Physicians of London. He is also a Fellow of the Aerospace Medical Association. Dr. Wallace started his career with general medical practice in Nova Scotia and the West Indies, and in 1980, he joined Transport Canada Aviation as a Regional Aviation Medical Officer for the Ontario region. Prior to his retirement in 2005, Dr. Wallace was Senior Consultant, Policy and Planning, and was also the Chairman of the Aviation Medical Review Board. Dr. Wallace is also very active in his community. He is a Member of the Aerospace Medical Association and the International Academy of Aviation and Space Medicine and a former Member of the Canadian Medical Association.

Richard WILLEMS

Alton, Ontario

» Reappointed to a part-time term of four years on January 25, 2010.

Mr. Willems is the Senior Captain Flying a Canadair Challenger for Rogers Communications in Toronto. His flying career began in central Saskatchewan in 1963 and has continued through North, Central and South America as well as Africa, Asia and Europe. Mr. Willems has held Transport Canada check pilot authority since 1976 on various piston, turbo-prop and jet aircraft. He has accumulated over 22 000 hours on 124 types of airplanes and gliders. In his spare time he enjoys flying his ASW-27b sailplane on long cross country flights.

Tribunal Rules

SOR/86-594, effective June 1, 1986 and amendment SOR/93-346, June 16, 1993

RULES GOVERNING THE PRACTICE AND PROCEDURE IN CONNECTION WITH MATTERS DEALT WITH BY THE TRANSPORTATION APPEAL TRIBUNAL OF CANADA

SHORT TITLE

1. These Rules may be cited as the *Transportation Appeal Tribunal of Canada Rules*.

INTERPRETATION

2. In these Rules,

"Act" means the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act*, or the *Canada Transportation Act* [s.2 of the *Transportation Appeal Tribunal of Canada Act*]; (*Loi*)

"party" means a party to a proceeding; (*partie*)

"proceeding" means a review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a review under sections 16.1, 20.4, 231.2, or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*; (*instance*)

"registrar" means a registrar of the Tribunal, and includes a deputy registrar; (*greffier*)

"registry" means the principal office of the Tribunal in the National Capital Region or such other offices as the Tribunal may establish from time to time. (*greffe*)

APPLICATION

3. These Rules apply to all proceedings.

Tribunal Rules

GENERAL

4. Where a procedural matter not provided for by the Act or by these Rules arises during the course of any proceeding, the Tribunal may take any action it considers necessary to enable it to settle the matter effectively, completely and fairly.

SERVICE

5. Service of a document, other than a summons referred to in section 14, shall be effected by personal service or by registered mail.

6. Where service of a document is effected by registered mail, the date of service is the date of receipt of the document.

FILING

7. Where a party is required or authorized to file a document with the Tribunal, the document may be filed by depositing it in the registry personally, by mailing it or sending it by courier to the registry or by transmitting it to the registry by telex, facsimile or other electronic means of communication if the registry has the necessary facilities for accepting transmission in such manner.

8. The date of filing of a document with the Tribunal is the date of receipt of the document at the registry, as evidenced on the document by means of the filing stamp of the Tribunal.

HOLIDAY

9. Where a time limit prescribed by or pursuant to the Act or these Rules falls on a Saturday, Sunday or holiday, the time limit is extended to the next following business day.

APPLICATIONS

10. (1) An application for any relief or order, other than a request for review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a request for review under sections 16.1, 20.4, 231.2 or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a request for review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a request for review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a request for review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*, shall be in writing

and filed with the Tribunal unless, in the opinion of the Tribunal, circumstances exist to allow an application to be dealt with in some other manner.

(2) An application shall fully set out the grounds on which it is based and shall specify the relief or order requested.

(3) Subject to subsection (4), where a party makes an application, the Tribunal shall serve notice of the application on each other party and shall afford each other party a reasonable opportunity to make representations.

(4) The Tribunal may dispose of an application on the basis of the material submitted by each party or, if in its opinion there exist exigent circumstances, on the basis of the material submitted by the applicant only.

(5) The Tribunal, upon considering the material submitted to it, shall render its determination of an application in writing and shall serve on each party a copy of the determination forthwith after the determination has been rendered.

EXTENDING OR ABRIDGING TIME

11. The Tribunal may extend or abridge a time prescribed by or pursuant to these Rules for performing any act or doing any thing on such terms, if any, as seem just.

PRELIMINARY PROCEDURES

12. The Tribunal may, orally or in writing, direct that the parties appear before a member of the Tribunal at a specified date, time and place for a conference, or consult each other and submit suggestions in writing to the Tribunal, for the purpose of assisting it in the consideration of

(a) the admission or proof of certain facts;

(b) any procedural matter;

(c) the exchange between the parties of documents and exhibits proposed to be submitted during a proceeding;

(d) the need to call particular witnesses; and

(e) any other matter that may aid in the simplification of the evidence and disposition of the proceeding.

ADJOURNMENTS

13. At any time, the Tribunal may, on the application of any party or on its own motion, adjourn a proceeding on such terms, if any, as seem just.

TRIBUNAL RULES

WITNESSES

14. (1) At the request of a party, the registrar shall issue a summons in blank for a person to appear as a witness before the Tribunal and the summons may be completed by the party requesting it.

(2) A summons shall be served personally on the person to whom it is directed at least 48 hours before the time fixed for the attendance of the person.

(3) At the time of service of a summons on a person, the party requesting the appearance of the person shall pay fees and allowances to the person in accordance with Rule 42 of the *Federal Courts Rules*.

15. (1) Where a person has been summoned to appear as a witness before the Tribunal and does not appear, the party that requested the issuance of the summons may apply to the Tribunal for a warrant directing a peace officer to cause the person who failed to appear to be apprehended anywhere in Canada and, subsequent to the apprehension, to be

(a) detained in custody and forthwith brought before the Tribunal until his presence as a witness is no longer required; or

(b) released on a recognizance, with or without sureties, conditional on the person's appearance at the date, time and place specified therein to give evidence at a proceeding.

(2) An application made pursuant to subsection (1) shall contain information indicating that

(a) the person named in the summons

(i) was served with the summons in accordance with subsection 14(2),

(ii) was paid or offered witness fees and allowances in accordance with subsection 14(3), and

(iii) failed to attend or remain in attendance before the Tribunal in accordance with the requirements of the summons; and

(b) the presence of the person named in the summons is material to the proceeding.

PROCEEDING

16. (1) Witnesses at a proceeding shall be subject to examination and cross-examination orally on oath or solemn affirmation.

(2) The Tribunal may order a witness at a proceeding to be excluded from the proceeding until called to give evidence.

(3) The Tribunal may, with the consent of each party, order that any fact be proved by affidavit.

(4) The Tribunal may inspect any property or thing for the purpose of evaluating the evidence.

ARGUMENT

17. The Tribunal may direct a party to submit written argument in addition to oral argument.

APPEALS

18. (1) An appeal to the Tribunal pursuant to sections 7.2 or 8.1 of the *Aeronautics Act*, sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*, sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*, sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*, or section 180.6(1) of the *Canada Transportation Act* shall be commenced by filing in writing with the Tribunal a request for appeal.

(2) A request for appeal shall include a concise statement of the grounds on which the appeal is based.

(3) A copy of a request for appeal shall be served by the Tribunal on each other party within ten days after filing the request.

19. Where a request for appeal has been filed with the Tribunal, the Tribunal shall serve on the parties to the appeal

(a) a notice of the date, time and place of the hearing of the appeal; and

(b) a copy of the record referred to in section 20 of the *Transportation Appeal Tribunal of Canada Act*, respecting the proceedings to which the appeal relates.

DETERMINATION

20. (1) The Tribunal shall render its determination in writing at the conclusion of a proceeding or as soon as is practicable after a proceeding.

(2) For the purpose of calculating the period within which a party may appeal a determination, the determination is deemed to be made on the day on which it is served on the party.

(3) The Tribunal shall serve on each party a copy of a determination forthwith after the determination has been rendered.

These Rules contain consequential amendments in the *Transportation Appeal Tribunal of Canada Act* and have been embodied for convenience of reference only. For purposes of interpretation of the law, the original Rules should be consulted.

2010-2011 In Review

Activities

This annual report covers the twelve months between April 1, 2010 and March 31, 2011. In this reporting period, the Tribunal registered 149 new requests for review (92 aviation, 56 marine and 1 Rail) and 6 requests for appeal (4 Aviation, 1 Marine and 1 from the Canadian Transportation Agency). This represents an increase of 9 new case files registered over fiscal year 2009 2010. Additionally, 17 requests for certificates were received from the Minister, pursuant to section 7.92 of the *Aeronautics Act*.

In addition to the new cases registered in this reporting period, 138 cases were carried over from the previous reporting period, bringing the total caseload to 293. This represents an increase of 32 cases over 2009-2010.

The Tribunal heard 28 first level reviews (18 aviation and 10 marine) and 8 second level appeals (7 aviation and 1 marine) for a total of 54 hearing days. This represents a decrease of 7 hearings over the previous fiscal year. Of the 56 cases that proceeded to a hearing, many cases were postponed and rescheduled at a later date. At the end of 2010-2011, 130 cases were pending further action, 18 were awaiting decisions and 16 had been scheduled for the 2011-2012 fiscal year.

In the 2010-2011 reporting period, 92 cases were concluded without a hearing.

In the 2010-2011 reporting period, 92 cases were concluded without a hearing. It should be noted that of these 92 cases many were requests filed with the Tribunal and concluded shortly before the hearing was to take place, which means that all registry work that leads up to the hearing was completed. The Registry prepared for 71 hearings.

The 92 cases concluded without a hearing were resolved in a number of ways: the document holder paid the fine before the hearing; the document holder's licence was reinstated before the hearing; the request for hearing was withdrawn by the document holder; the notice was withdrawn by the Minister; or an agreement was reached between the parties.

2010-2011 In Review

Effectiveness

The Tribunal's effectiveness can be measured by its ability to provide the Canadian transportation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time. The average lapsed time in 2010-2011 between the conclusion of a Review Hearing and the issuance of a determination is 98 days and 160 days for an Appeal Hearing. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal.

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of hearings and avoids last minute adjournments necessitated by late disclosure.

In 2010-2011 the Tribunal referred 3 cases back to the Minister for reconsideration

Facilitating discussions before the parties have also been particularly effective in settling licence suspensions and the refusal to renew on medical grounds without the necessity of a hearing. The Tribunal Registrars contact the parties to schedule mutually agreed hearing dates to the extent possible to avoid unnecessary adjournments.

In 2009-2010, the Tribunal did not refer any cases back to the Minister of Transport for reconsideration, pursuant to section 7.1 of the *Aeronautics Act*. In 2010-2011, the Tribunal referred 3 cases back to the Minister for reconsideration, in light of the Tribunal lacking the power to substitute its own decision for that of the Minister in these cases.

Training and Development

When new Members are appointed, they receive in-house training in all aspects of administrative law and the conduct of hearings. As well, external legal counsel is available to assist during pre-hearing, hearing and post-hearing matters. Internally, the staff is encouraged to undergo annual professional education.

The Tribunal's success can, in great part, be attributed to the importance placed on the training and development of its Members and staff.

The quality of the hearings which are held across the country and the decisions which are rendered are reflective of the high level of experience possessed by and the training provided to all Tribunal Members.

Future Plans

With the prediction of an increased caseload of as much as fifty percent to include the marine sector, the Tribunal will be seeking additional funding to sustain its multi-modal transportation mandate.

The most significant upcoming challenge for the Tribunal will be the realization of its expansion as a multi-modal transportation tribunal addressing the air, marine and rail sectors. This will increase the overall workload and require expansion of capacity in new areas of expertise: more Members will have to be appointed and trained. Existing employees will likely require additional training and new staff will have to be hired to ensure that the current high efficiencies will be maintained.

2010-2011 In Review

Resources

FINANCIAL RESOURCES – Details of Financial Requirements by Object			
(Thousands of dollars)	Budget 2010-2011	Actual Expenses 2010-2011	Estimates 2009-2010
PERSONNEL			
Salaries and wages	794.5	720.8	658.4
Contributions to employee benefit plans	134.1	129.2	115.6
Total personnel	928.6	850.0	775.0
GOODS AND SERVICES			
Transportation and communications	245.2	182.0	188.0
Information and printing services	45.0	37.4	27.8
Professional and special services	375.0	367.5	357.0
Rentals	40.0	24.0	28.0
Purchased, repairs and upkeep	85.0	29.8	56.0
Utilities, materials and supplies	70.0	27.5	28.0
Total goods and services	860.2	668.2	684.8
GRAND TOTAL	**1 788.8**	**1 518.2**	**1 459.8**

DISTRIBUTION OF FULL-TIME EQUIVALENTS	
	FTEs*
Governor in Council (GIC)	2
Administrative Services (AS)	7
Information Services (IS)	2
Legal Counsel (LA2B)	1
TOTAL	**12**

* FTEs: Full-time equivalent is a measure of human resource consumption.

Statistical Data

The following pages contain data tables, based on the Tribunal's new requests received during 2010-2011 and files carried over from 2009-2010.

The tables are separated into various interests.

- Comparison of files worked on for the past five fiscal years
- Hearing results by region and disposition

The tables are presented under various categories and regions.

- Medicals
- Suspensions
- Fines
- Cancellations
- Refusals to issue
- Refusals to remove a notation
- Rail Orders

Statistical Data

Fiscal Year 2010–2011

TOTAL CASES BY CATEGORY

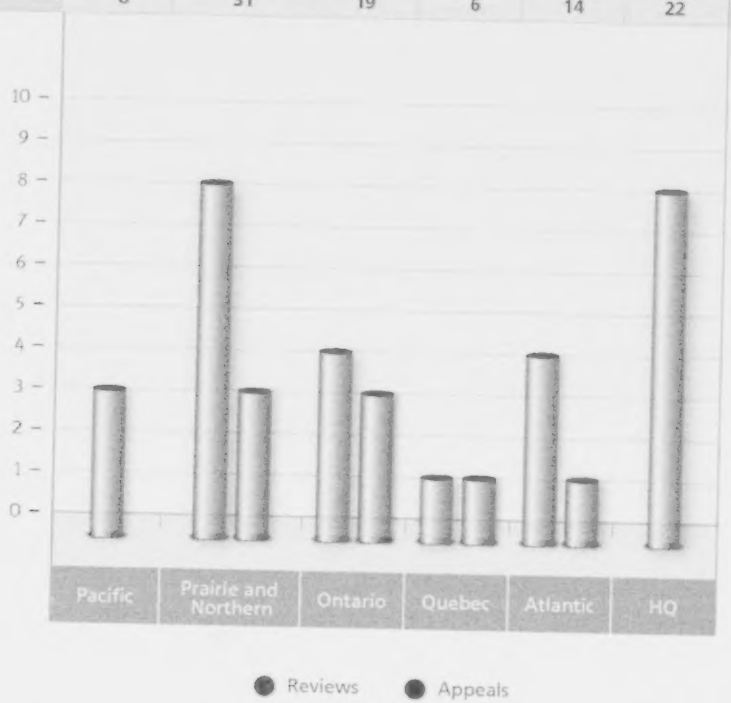
Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS	%
MEDICALS								
Aviation	12	13	25	21	5	3	98	33
Marine	0	0	0	0	0	19		
SUSPENSIONS								
Aviation	5	26	5	7	0	6	49	17
FINES								
Aviation	7	35	8	8	1	3	120	41
Marine	16	2	7	14	13	0		
Canadian Transportation Agency	0	0	0	0	0	6		
CANCELLATIONS								
Aviation	0	2	1	2	0	0	6	2
Marine	0	0	0	1	0	0		
REFUSALS TO ISSUE								
Aviation	1	4	1	3	0	1	18	6
Marine	0	0	0	0	1	7		
REFUSALS TO REMOVE A NOTATION								
Aviation	0	0	0	0	0	1	1	.5
RAIL ORDERS								
Rail	0	1	0	0	0	0	1	.5
TOTALS	**41**	**83**	**47**	**56**	**20**	**46**	**293**	–
%	**14**	**28**	**16**	**19**	**7**	**16**	–	**100**

Statistical Data

Fiscal Year 2010–2011

REVIEWS AND APPEALS CONCLUDED WITH A HEARING

Hearing Level	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS	%
REVIEWS								
Aviation	3	8	3	1	0	3	28	78
Marine	0	0	1	0	4	5		
APPEALS								
Aviation	0	3	2	1	1	0	8	22
Marine	0	0	1	0	0	0		
TOTALS	3	11	7	2	5	8	36	
%	8	31	19	6	14	22	–	100



Statistical Data

Fiscal Year 2010–2011

HEARINGS BY CATEGORY

Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
MEDICALS							
Marine	0	0	0	0	0	5	5
SUSPENSIONS							
Aviation	0	2	1	1	0	1	5
CANCELLATIONS							
Aviation	0	1	0	1	0	0	2
FINES							
Aviation	3	8	4	0	1	0	22
Marine	0	0	2	0	4	0	
REFUSALS TO ISSUE							
Aviation	0	0	0	0	0	1	1
NOTATION – REFUSAL TO REMOVE NOTATION FROM RECORD							
Aviation	0	0	0	0	0	1	1
TOTALS	3	11	7	2	5	8	36

Statistical Data

Fiscal Year 2010–2011

HEARING RESULTS BY DISPOSITION

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
SUSPENSIONS (Aviation)							
Referred back to the Minister	0	1	0	0	0	1	2
Awaiting decision	0	1	1	1	0	0	3
TOTALS	**0**	**2**	**1**	**1**	**0**	**1**	**5**
CANCELLATIONS (Aviation)							
Request for review withdrawn following ruling	0	0	0	1	0	0	1
Minister's decision confirmed	0	1	0	0	0	0	1
TOTALS	**0**	**1**	**0**	**1**	**0**	**0**	**2**
FINES (Aviation, Marine)							
Minister's allegation upheld							
Aviation	0	0	2	0	0	0	3.5
Marine	0	0	1	0	0.5	0	
Minister's allegation dismissed							
Aviation	0	0	0	0	0	0	1.5
Marine	0	0	0	0	1.5	0	
Appeal allowed – Sanction cancelled							
Aviation	0	1	0	0	0	0	1
Appeal dismissed – Sanction upheld							
Aviation	0	0	2	0	0	0	2
Agreement reached at hearing							
Aviation	0	1	0	0	0	0	1
Awaiting decision							
Aviation	3	6	0	0	1	0	13
Marine	0	0	1	0	2	0	
TOTALS	**3**	**8**	**6**	**0**	**5**	**0**	**22**

Statistical Data

Fiscal Year 2010–2011

HEARING RESULTS BY DISPOSITION *(continued)*

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
MEDICALS (Aviation, Marine)							
Minister's decision upheld							
Aviation	0	0	0	0	0	0	1
Marine	0	0	0	0	0	1	
Request withdrawn following Hearing							
Marine	0	0	0	0	0	1	1
Awaiting decision							
Marine	0	0	0	0	0	3	3
TOTALS	**0**	**0**	**0**	**0**	**0**	**5**	**5**
REFUSAL TO ISSUE (Aviation)							
Awaiting Decision	0	0	0	0	0	1	1
TOTALS	**0**	**0**	**0**	**0**	**0**	**1**	**1**
REFUSAL TO REMOVE NOTATION FROM RECORD (Aviation)							
Referred back to the Minister	0	0	0	0	0	1	1
TOTALS	**0**	**0**	**0**	**0**	**0**	**1**	**1**

HISTORICAL DATA

Fiscal Year 2010–2011

COMPARISON OF CASES WORKED ON FOR THE PAST FIVE YEARS

Region	2010-2011	2009-2010	2008-2009	2007-2008	2006-2007
Pacific	41	41	33	43	48
Prairie and Northern	83	88	71	82	50
Ontario	47	37	40	42	46
Quebec	56	39	45	59	44
Atlantic	20	30	16	20	11
HQ	46	26	11	12	12
TOTALS	**293**	**261**	**216**	**258**	**211**

TOTAL CASES CONCLUDED WITH A HEARING BY REGION SINCE 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	TOTALS
Total hearings	183	643	345	384	153	41	**1 749**
%	**10**	**37**	**20**	**22**	**9**	**2**	**100**

Of the 1,749 cases concluded with a hearing, 1,401 were reviews (80%) and 348 were appeals (20%).

CASELOAD FOR THE PAST FIVE YEARS

	2010-2011	2009-2010	2008-2009	2008-2007	2006-2007
New requests	149	130	112	141	89
Settled without a hearing	92	87	75	125	52
Review hearings	28	34	30	29	28
Appeal hearings	8	9	8	8	11

Notes